

Message Text

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41

ACTION AF-06

INFO OCT-01 ISO-00 OES-03 OPR-02 IO-10 SS-15 SP-02 NSC-05

CIAE-00 INR-07 NSAE-00 DODE-00 A-01 L-03 SIL-01 LAB-04

EB-07 OMB-01 TRSE-00 (ISO) W

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P 041345Z SEP 75

FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC PRIORITY 7563

NASA HQS WASHDC PRIORITY

LIMITED OFFICIAL USE TANANARIVE 1504

E.O. 11652: N/A

TAGS: PFOR, NASA, MA, US

SUBJECT: CHARGE CONVOKED BY ACTING FOREIGN MINISTER ON NASA
EMPLOYEE SALARIES

REF: TANANARIVE 1485

SUMMARY: MINISTER REQUESTED EMBASSY SEEK TO ACCELERATE PAYMENTS
DUE EMPLOYEES AND THAT EMPLOYEES NOT BE MADE SUFFER BECAUSE OF
DISPUTE BETWEEN GOVERNMENTS. CHARGE NOTED THAT EMPLOYEES'
REQUESTS WERE BEING MET AND DELAYS ADMINISTRATIVE NOT POLITICAL
MINISTER ALSO GAVE CHARGE NOTE ON SEVERANCE PAY. END SUMMARY.

1. ACTING FOREIGN MINISTER PORTOS AMPY REQUESTED CHARGE SEE
HIM SEPTEMBER 4 TO DISCUSS SALARY PAYMENTS AND WORK CERTIFICATES
FOR NASA STATION EMPLOYEES. MINISTER BEGAN BY INDICATING
THAT GOMR DID NOT BELIEVE EMPLOYEES SHOULD SUFFER BECAUSE OF
US-GOMR DISPUTE. CHARGE AGREED, SAYING HE HAD TOLD EMPLOYEES
AND DIRECTOR OF BILATERAL RELATIONS AT MOFA THAT CHECKS TO
BE SENT THIS WEEK AND ADDED THAT CONFIRMATION THIS FACT RECEIVED
FROM BENDIX SEPTEMBER 4. MINISTER SAID HE WAS AWARE THAT
CHECKS BEING MAILED BUT REQUESTED THIS NOW BE DONE BY
CABLE. HE ADDED THAT DELAY WAS CAUSED BY U.S. WITHDRAWAL
OF BENDIX MANAGERIAL PERSONNEL AND NOTED THAT GOMR COULD
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HAVE BARRED BENDIX MANAGER'S DEPARTURE BUT DECIDED NOT TO
DO SO. (MINISTER REPEATED THIS POINT LATER.) CHARGE SAID
CABLE IMPRACTICAL AND THAT CHECKS ALREADY PREPARED. IN
ADDITION, CHARGE NOTED THAT EMPLOYEES THEMSELVES HAD

DELAYED PROCESSING BY REQUESTING ALL PAYMENTS DUE BE MADE SIMULTANEOUSLY RATHER THAN AS ORIGINALLY PROPOSED TWO-STEP APPROACH, I.E. (1) OVERTIME AND NIGHT PAY; AND (2) VACATION PAY. CHARGE SAID THAT WORK CERTIFICATES ALSO BEING PREPARED AS WELL AS PRELIMINARY WORK ON SEVERANCE PAY.

2. MINISTER THEN HANDED CHARGE NOTE SET OUT PARA 4 BELOW AFTER ORAL REVIEW OF ITS CONTENTS. MINISTER THEN REPEATED SUBSTANCE OF POINTS MADE EARLIER. CHARGE DID SAME INDICATING THAT HE WOULD FORWARD NOTE AND ASK BENDIX TO ACCELERATE THEIR EFFORTS.

3. MINISTER'S ONLY REFERENCE TO MALAGASY NOTES RECEIVED SEPTEMBER 2 (REFTEL) WAS THAT GOMR WAS STILL AWAITING RESPONSE TO AUGUST 9 (PARA 2 REFTEL) NOTE THAT WAS TRANSMITTED TO DEPARTMENT BY MALAGASY EMBASSY IN WASHINGTON.

4. MOFA NOTE NO. 83-AE/DRB/SP, SEPTEMBER 4, 1975:
QUOTE THE MINISTRY OF FOREIGN AFFAIRS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND HAS THE HONOR TO SET FORTH THE FOLLOWING:

ON JULY 14, 1975 THE MALAGASY EMPLOYEES OF THE NASA STATION WERE OBLIGED TO STOP WORKING AT THE STATION. THIS RESULTS FROM THE TERMINATION OF THE STATION'S ACTIVITIES. DUE TO THIS FACT, AND CONSIDERING THAT THE ACTIVITIES OF NASA ARE SUBJECT TO THE MALAGASY LAWS AND REGULATIONS, IN ABSENCE OF CONTRARY PROVISIONS OF AN AGREEMENT, IT IS INCUMBENT ON THE NASA TO PROVIDE THE ABOVE EMPLOYEES WITH SEVERANCE PAY AND ALLOWANCES IN LIEU OF NOTICE.

IN FACT, IT IS STIPULATED IN ARTICLE 36 OF THE "CODE DU TRAVAIL" (LABOR LEGISLATION) (DECREE NO. 75-013-DM OF MAY 17, 1975) THAT "UNLESS MORE FAVORABLY PROVIDED IN AN INDIVIDUAL CONTRACT OR COLLECTIVE CONVENTIONS, ANY WORKER DISMISSED FOR PERSONNEL REDUCTION OR TERMINATION OF THE FIRMS'S ACTIVITIES, SHALL BE GIVEN A DISMISSAL COMPENSATION LIMITED OFFICIAL USE
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AT THE RATE OF SIX DAYS' SALARY FOR EACH COMPLETE WORKING YEAR, WITHOUT THE TOTAL AMOUNT BEING ALLOWED TO EXCEED THREE MONTHS' SALARY."

THIS CLAUSE, BEING CONSIDERED A PUBLIC LAW, THE NASA, AS EMPLOYERS, CANNOT ELUDE ITS APPLICATION. CONSEQUENTLY, THE MINISTRY WOULD LIKE TO REQUEST THE EMBASSY TO ASK THE SAID EMPLOYERS TO PROVIDE THE MALAGASY EMPLOYEES OF THE STATION WITH DISMISSAL COMPENSATIONS.

AS FOR THE APPLICATION OF ARTICLE 33 OF THE ABOVE "CODE DU TRAVAIL," THE NASA EMPLOYERS ARE ALSO OBLIGED TO PAY THE

MALAGASY EMPLOYEES OF THE STATION COMPENSATION IN LIEU OF NOTICE. AS A MATTER OF FACT, IF THE STATION WAS CLOSED, IT IS BECAUSE OF THE NASA REFUSAL TO PAY THE MALAGSY GOVERNMENT THE DUE AMOUNT AS RENT OF THE LAND UTILIZED BY THE STATION, WHICH RESULTS IN THE CLOSURE OF THE STATION. MOREOVER, IN ABSENCE OF ANY DISPUTE, THE STATION WAS NOT PERMITTED TO OPERATE LEGALLY, SINCE THE AGREEMENT AUTHORIZING THE PURSUANCE OF NASA ACTIVITIES AT IMERINTSIATOSIKA HAD EXPIRED AND WAS NOT RENEWED.

CONSEQUENTLY, IT RESTS WITH THE NASA EMPLOYERS TO TAKE THE NECESSARY ACTION, WITH FULL KNOWLEDGE OF THE FACTS CONCERNING THE NOTICE TO THEIR EMPLOYEES.

THUS, THE MINISTRY WOULD LIKE TO ASK THE EMBASSY TO BE WILLING TO DO THE NECESSARY FOR THE PAYMENT OF ABOVE-MENTIONED COMPENSATIONS WITHIN THE TIME COMPATIBLE WITH THE SURVIVAL OF THE SAID EMPLOYEES WHO ARE NOW SHORT OF ANY FINANCIAL MEANS AS A RESULT OF THE CESSATION OF THEIR WORK.

COMPLIMENTARY CLOSING UNQUOTE.

5. COMMENT: EMBASSY BELIEVES THAT IT IS APPROPRIATE TO CONTINUE TO DO WHAT WE HAVE BEEN, - MEETING OUR OBLIGATIONS TO MALAGASY EMPLOYEES OF STATION, - BUT THAT WE PROCEED ADMINISTRATIVELY AS BEST SUITS OUR ADMINISTRATIVE CIRCUMSTANCES, NOT THOSE OF GOMR.

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